

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

<p>Daryl E. Dinkla, Petitioner-Appellant, v. Guthrie County Board of Review, Respondent-Appellee.</p>	<p style="text-align: center;">ORDER</p> <p>Docket No. 09-39-1159 Parcel No. 00048-0001148700</p> <p>Docket No. 09-39-1160 Parcel No. 00048-0001148701</p> <p>Docket No. 09-39-1161 Parcel No. 00048-0001148702</p> <p>Docket No. 09-39-1162 Parcel No. 00048-0001148703</p> <p>Docket No. 09-39-1163 Parcel No. 00048-0001148704</p> <p>Docket No. 09-39-1164 Parcel No. 00048-0001148705</p> <p>Docket No. 09-39-1165 Parcel No. 00048-0001148706</p>
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On October 19, 2010, the above-captioned appeals came on for hearing before the Iowa Property Assessment Appeal Board. The hearing was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant, Daryl E. Dinkla, was self-represented and submitted evidence in support of his position. The Guthrie County Board of Review designated attorney Brett Ryan, of Willson & Pechacek, PLC, Council Bluffs as its legal representative and submitted evidence in support of its position. The Appeal Board having reviewed the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Daryl Dinkla is the owner of property located at 805 7th Street, Guthrie Center, Iowa. The property consists of six individual 890 square foot condominium units with detached garages, as well as a separately assessed group of eight detached garages. The properties are part of a horizontal property regime and each unit has rights to the common or shared areas of the property. The total assessment of each individual condominium unit as of January 1, 2009, was \$62,331, allocated as \$2898 to the land and \$59,433 to the improvements. The January 1, 2009, total assessment of the eight detached garages was \$64,007, allocated as \$16,809 to the land and \$47,198 to the improvements.

Dinkla petitioned the Board of Review protesting the 2009 assessments on the grounds that the properties were assessed for more than authorized by law under Iowa Code section 441.37(1)(b), that there was an error in the assessments under section 441.37(1)(c), and that there had been a change downward in values under sections 441.37(1) and 441.35(3). Dinkla claims the actual value and a fair assessment of the property as a whole is \$300,000. Dinkla's claim of error is that the subject properties are over-assessed.

Dinkla then appealed to this Board, reasserting only the claims of over-assessment and downward change. In a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Accordingly, we do not consider downward change as a separate claim and instead consider only the claim of over-assessment. He seeks relief of \$137,993 for a total valuation of the property at \$300,000. He claims the assessed value of the six individual units is \$43,333 each and the garage unit is \$40,000, which he rounds to a total value of \$300,000.

Dinkla testified he has had the subject properties listed for sale for over two-and-a-half years. The properties were originally listed in mid-June for \$390,000, which included all six units, personal

property, and fourteen garages. The six condominium units were also marketed separately each including a garage. These units were priced at \$68,000 for the three upper units and \$67,000 for the three lower units. In late 2007, the asking price for the complex as a whole was reduced to \$375,000. Dinkla's listing agent, Patrick Moylan, with Squires, Moylan Realty indicated in a January 21, 2008, letter he believed that to "move this property we might need to be in the range of \$325,000 to \$350,000 to sell the original complex." We note that Moylan's comments refer to the entire complex, rather than the suggested list price of each individual unit. Because these are individual units, evidence must be presented on individual values. See *Dinkla v. Guthrie County Bd. of Review*, 2006 WL 2422170 (Iowa Ct. App. 2006) (Unpublished).

Dinkla provided the reconciliation page of an appraisal completed by Fred Locke with Iowa Appraisal and Research Corporation, which estimated the January 1, 2004, value of the entire complex at \$310,000, which includes personal property and \$301,000, for the real estate only. Dinkla testified that Locke valued the units separately and added them together for reporting purposes. We are unable to verify this, as we were not provided with the entire appraisal report. Dinkla also provides a summary statement of an appraisal completed by William S. Carlson of Carlson, McClure and Associates Inc. Carlson valued the individual units as of January 1, 2005, concluding the value of the three upper units at \$61,000 each, the lower units at \$59,500 each, and the garage units at \$36,000. We give these appraisals no consideration as they are not reflective of a January 1, 2009, assessment value and they are only the reconciliations of the appraisers' analysis.

Dinkla also offers evidence of national statistics from the S&P/Case-Shiller Home Price Indices as well as statewide housings trends. We give little consideration to this data as it reflects national and statewide trends versus local trends specific to Guthrie County and Guthrie Center.

Lastly, Dinkla offers several pages of print-outs from the Guthrie County Assessor's web site. The printouts include a parcel number, sale date, sale amount, address, style, year built, total living

area (TLA), lot area, appraised value, and recording date of the last transaction. Several of the properties are crossed out, and some are circled. Dinkla asserts this information demonstrates properties in Guthrie County are over-assessed. Again, we give this data little consideration as it is raw data that has not been compared to the subject properties; has not been demonstrated to be comparable to the subject properties; and has not been adjusted to reflect a market value for the individual units.

The Board of Review submitted an appraisal completed by Russ Manternach with Commercial Appraiser of Iowa. As of January 1, 2009, Manternach values the three upper units at \$62,000, each (real estate only); the three lower units at \$60,000 each; and the garage units at \$40,000. Manternach developed, and relied solely upon, the sales comparison approach to value for the six condominium units. He developed and gave equal consideration to the cost and income approaches when valuing the garage units.

The Board of Review also submitted an appraisal completed by Robert Ehlers of Vanguard Appraisal. As of January 1, 2009, Ehlers values the three upper units at \$66,000, each (real estate only); the lower units at \$65,000, each; and the garage units at \$38,500. Ehlers developed and considered only the sales comparison approach for the six condominium units. He developed both the cost and income approaches to value for the garage units. The cost approach indicated a value of \$44,150 and the income approach indicated a value of \$32,900. Ehlers reconciled these values to \$38,500 for the garage units.

We consider both appraisals submitted by the Board of Review to be credible, however give more consideration to Manternach's appraisal. While both used sales which occurred between 2006 and 2008, Manternach's comparables are more similar in overall size to the subject units than Ehler's and had significantly lower net adjustments overall.

After reviewing all the evidence, we find the preponderance of the evidence presented supports a finding that the Dinkla's property is assessed for more than authorized by law. We give the most consideration to Manternach's appraisal submitted by the Board of Review which indicates the properties are over-assessed.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the

correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The Board of Review provided an appraisal completed by Russ Manternach concluding the market value of the upper level units to be \$62,000 each; the lower level units to be \$60,000 each; and the garage parcel to be \$40,000. We give this appraisal the most weight.

The evidence supports the claim that the properties are assessed for more than the value authorized by Iowa Code section 441.21. Therefore, we modify the January 1, 2009, assessments of the properties located at 805 North 7th Street, Guthrie County, Iowa, as determined by the Guthrie County Board of Review.

THE APPEAL BOARD ORDERS that Daryl E. Dinkla's properties located at 805 North 7th Street, Guthrie County, Iowa, are modified to reflect the January 1, 2009, assessments to the following values and allocations:

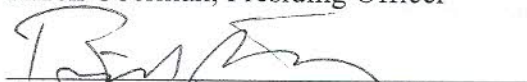
Docket #	Parcel #	Total Value	Land Allocation	Improvement Allocation
09-39-1159	00048-0001148700	\$40,000	\$10,000	\$30,000
09-39-1160	00048-0001148701	\$62,000	\$2,898	\$59,102
09-39-1161	00048-0001148702	\$62,000	\$2,898	\$59,102
09-39-1162	00048-0001148703	\$62,000	\$2,898	\$59,102
09-39-1163	00048-0001148704	\$60,000	\$2,898	\$57,102
09-39-1164	00048-0001148705	\$60,000	\$2,898	\$57,102
09-39-1165	00048-0001148706	\$60,000	\$2,898	\$57,102

The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Guthrie County Auditor and all tax records, assessment books and other records pertaining to the assessments referenced herein on the subject parcels shall be corrected accordingly.

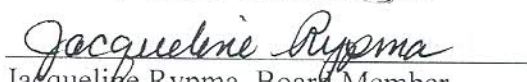
Dated this 9 day of December, 2010.



Karen Oberman, Presiding Officer



Richard Stradley, Board Member



Jacqueline Rypma, Board Member

Cc:

Daryl E. Dinkla
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ATTORNEY FOR APPELLEE

Jerri Cristman
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AUDITOR

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>12-9</u> , 2010	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u><i>Jim Stroger</i></u>